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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,370	03/24/2004	John J. O'Mahony	3659-86	3960

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER

KAYES, SEAN PHILLIP

ART UNIT PAPER NUMBER

2841

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,370

Applicant(s)

O'MAHONY ET AL.

Examiner

Sean Kayes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claim 1-6, drawn to weight scale, classified in class 177, subclass 154.
 - II. Claims 7-9, drawn to method for compensating for non-linear displacement of a beam, classified in class 73, subclass 765.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the weight scale could be used without the method of compensating for non-linear displacement and the method of compensating for non-linear displacement can be used on an apparatus other than the weight scale.
3. During a telephone conversation with Jeffrey Nelson on 12/05/2005 a provisional election was made without traverse to prosecute the invention of John O'Mahony, claims 1-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-9 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143). Applicant is reminded that upon the cancellation of claims to

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a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "Figure 14" has been used to designate both "a graph of unfiltered 0.87 Hz pendulum action of weight scale at a pendulum length of 106 mm filtered with a 0.3 Hz 2 pole low pass filter and a 0.16 Hz single pole low pass filter." and "a graph of the response of the dual filters weight scale output to a ramp input of 600 ml/hr." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "209" has been used to designate both spring and a gap/opening (fig. 3.) Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 605, 615, 619, 706, 707, 708, 709 902, 904, and 905. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

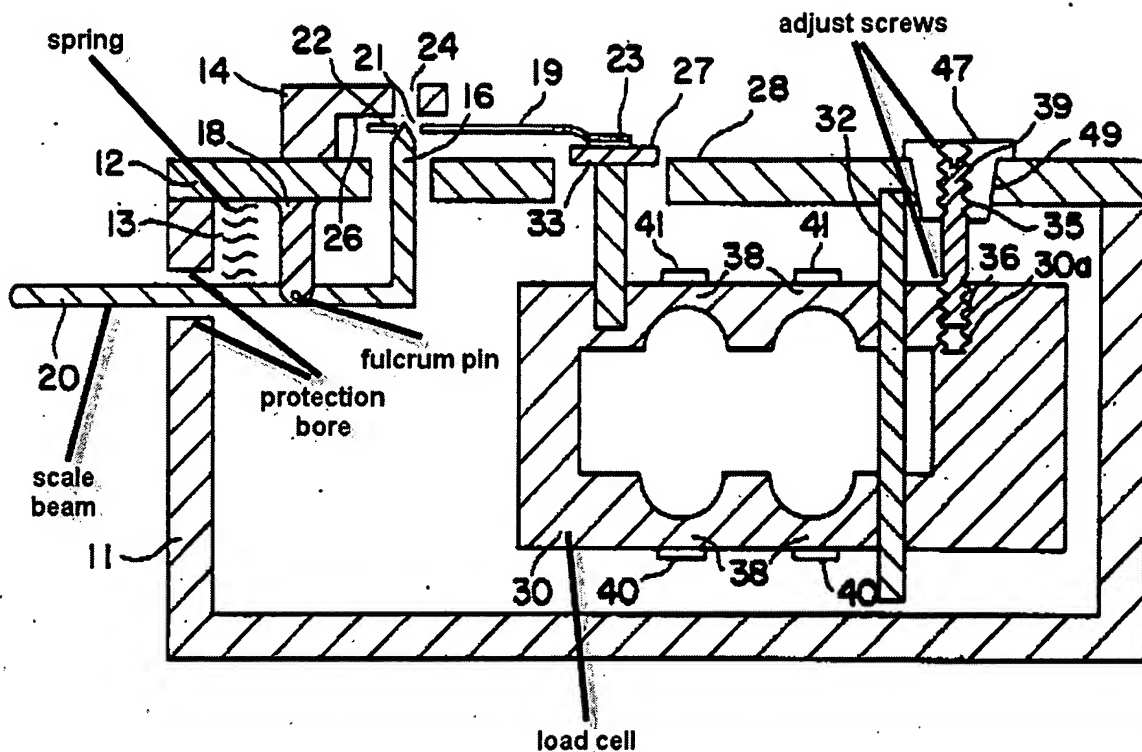
8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Castle et al. (US 5237864.)

10. With respect to claim 1, Castle discloses a weight scale comprising: a load cell attachable to a support housing (30 fig. 1 and picture I. provide below); a spring coupled to the load cell to apply a force to the load cell (13 fig. 1 and picture I. provide below); a scale beam connected to the spring and at a proximal end connectable to the support housing (20 fig. 1 and picture I. provide below), and an overload protection bore comprising an aperture through which extends said beam and said aperture having at least one edge in a path of said beam (fig. 1 and picture I. provide below), wherein said edge terminates said path and the beam reaches a maximum rated load position in the path before the edge (follows from the fact that it is attached to a spring and the movement is limited by the protection bore.)



11. With respect to claim 2, Castle discloses a weight scale as in claim 1 (see 102 rejection above) wherein the proximal end of the beam is connected to the support housing via a fulcrum pin and the beam pivots with respect to the housing (18 fig. 1 and picture I. provide above.)
12. With respect to claim 3, Castle discloses a weight scale as in claim 1 wherein the spring is connected to a distal end of the beam (20 fig. 1 and picture I provide above.)
13. With respect to claim 4, Castle discloses a weight scale as in claim 1 wherein the bore aperture has edges on all sides of said beam, and said edges prevent excessive displacement of the beam (see picture I. provided above.)

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14. With respect to claim 5, Castle discloses a weight scale as in claim 1 further comprising an adjustable attachment between the spring and at least one of the beam and load cell, wherein said adjustable attachment establishes an unloaded position of the beam (36 and 39 fig. 1 and see picture I. provided above.)

15. With respect to claim 6, Castle discloses a weight scale as in claim 1 wherein said overload protection bore comprises an aperture through which extends said beam and said aperture having at least one edge in a path of said beam (see picture I. provided above.), wherein said edge terminates said path and the beam has maximum rated load position in the path before the edge (the opening necessarily functions as a load bar, with a maximum rated load position because it limits the distance the beam will move against the spring, 13 fig. 1.)

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cooper et al. (US 5245872.)

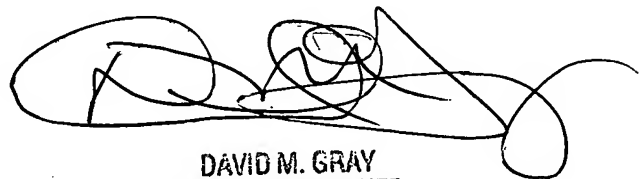
17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Kayes whose telephone number is (571) 272-8931. The examiner can normally be reached on 8:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on (571) 272-2219. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/05/2005
SK

A handwritten signature in black ink, appearing to read 'DAVID M. GRAY', with a large, stylized flourish extending to the right.

DAVID M. GRAY
PRIMARY EXAMINER